

§ 266.240

LOSS OF CONDITIONAL EXEMPTION

§ 266.240 How could you lose the conditional exemption for your LLMW and what action must you take?

(a) Your LLMW will automatically lose the storage and treatment conditional exemption if you fail to meet any of the conditions specified in § 266.230. When your LLMW loses the exemption, you must immediately manage that waste which failed the condition as RCRA hazardous waste, and the storage unit storing the LLMW immediately becomes subject to RCRA hazardous waste container and/or tank storage requirements.

(1) If you fail to meet any of the conditions specified in § 266.230 you must report to us and the NRC, or the oversight agency in the NRC Agreement State, in writing by certified delivery within 30 days of learning of the failure. Your report must be signed by your authorized representative certifying that the information provided is true, accurate, and complete. This report must include:

- (i) The specific condition(s) you failed to meet;
- (ii) A description of the LLMW (including the waste name, hazardous waste codes and quantity) and storage location at the facility; and
- (iii) The date(s) on which you failed to meet the condition(s).

(2) If the failure to meet any of the conditions may endanger human health or the environment, you must also immediately notify us orally within 24 hours and follow up with a written notification within five days. Failures that may endanger human health or the environment include, but are not limited to, discharge of a CERCLA reportable quantity or other leaking or exploding tanks or containers, or detection of radionuclides above background or hazardous constituents in the leachate collection system of a storage area. If the failure may endanger human health or the environment, you must follow the provisions of your emergency plan.

(b) We may terminate your conditional exemption for your LLMW, or require you to meet additional conditions to claim a conditional exemption, for serious or repeated noncompliance

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with any requirement(s) of subpart N of this part.

§ 266.245 If you lose the storage and treatment conditional exemption for your LLMW, can the exemption be reclaimed?

(a) You may reclaim the storage and treatment exemption for your LLMW if:

(1) You again meet the conditions specified in § 266.230; and

(2) You send us a notice by certified delivery that you are reclaiming the exemption for your LLMW. Your notice must be signed by your authorized representative certifying that the information contained in your notice is true, complete, and accurate. In your notice you must do the following:

(i) Explain the circumstances of each failure.

(ii) Certify that you have corrected each failure that caused you to lose the exemption for your LLMW and that you again meet all the conditions as of the date you specify.

(iii) Describe plans that you have implemented, listing specific steps you have taken, to ensure the conditions will be met in the future.

(iv) Include any other information you want us to consider when we review your notice reclaiming the exemption.

(b) We may terminate a reclaimed conditional exemption if we find that your claim is inappropriate based on factors including, but not limited to, the following: you have failed to correct the problem; you explained the circumstances of the failure unsatisfactorily; or you failed to implement a plan with steps to prevent another failure to meet the conditions of § 266.230. In reviewing a reclaimed conditional exemption under this section, we may add conditions to the exemption to ensure that waste management during storage and treatment of the LLMW will protect human health and the environment.

RECORDKEEPING

§ 266.250 What records must you keep at your facility and for how long?

(a) In addition to those records required by your NRC or NRC Agreement

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State license, you must keep records as follows:

(1) Your initial notification records, return receipts, reports to us of failure(s) to meet the exemption conditions, and all records supporting any reclaim of an exemption;

(2) Records of your LLMW annual inventories, and quarterly inspections;

(3) Your certification that facility personnel who manage stored mixed waste are trained in safe management of LLMW including training in chemical waste management and hazardous materials incidents response; and

(4) Your emergency plan as specified in § 266.230(b).

(b) You must maintain records concerning notification, personnel trained, and your emergency plan for as long as you claim this exemption and for three years thereafter, or in accordance with NRC regulations under 10 CFR part 20 (or equivalent NRC Agreement State regulations), whichever is longer. You must maintain records concerning your annual inventory and quarterly inspections for three years after the waste is sent for disposal, or in accordance with NRC regulations under 10 CFR part 20 (or equivalent NRC Agreement State regulations), whichever is longer.

REENTRY INTO RCRA

§ 266.255 When is your LLMW no longer eligible for the storage and treatment conditional exemption?

(a) When your LLMW has met the requirements of your NRC or NRC Agreement State license for decay-in-storage and can be disposed of as non-radioactive waste, then the conditional exemption for storage no longer applies. On that date your waste is subject to hazardous waste regulation under the relevant sections of 40 CFR parts 260 through 271, and the time period for accumulation of a hazardous waste as specified in 40 CFR 262.34 begins.

(b) When your conditionally exempt LLMW, which has been generated and stored under a single NRC or NRC Agreement State license number, is removed from storage, it is no longer eligible for the storage and treatment exemption. However, your waste may be eligible for the transportation and disposal conditional exemption at § 266.305.

STORAGE UNIT CLOSURE

§ 266.260 Do closure requirements apply to units that stored LLMW prior to the effective date of Subpart N?

Interim status and permitted storage units that have been used to store only LLMW prior to the effective date of subpart N of this part and, after that date, store only LLMW which becomes exempt under this subpart N, are not subject to the closure requirements of 40 CFR parts 264 and 265. Storage units (or portions of units) that have been used to store both LLMW and non-mixed hazardous waste prior to the effective date of subpart N or are used to store both after that date remain subject to closure requirements with respect to the non-mixed hazardous waste.

TRANSPORTATION AND DISPOSAL CONDITIONAL EXEMPTION

§ 266.305 What does the transportation and disposal conditional exemption do?

This conditional exemption exempts your waste from the regulatory definition of hazardous waste in 40 CFR 261.3 if your waste meets the eligibility criteria under § 266.310, and you meet the conditions in § 266.315.

ELIGIBILITY

§ 266.310 What wastes are eligible for the transportation and disposal conditional exemption?

Eligible waste must be:

(a) A low-level mixed waste (LLMW), as defined in § 266.210, that meets the waste acceptance criteria of a LLRWDF; and/or

(b) An eligible NARM waste, defined in § 266.210.

CONDITIONS

§ 266.315 What are the conditions you must meet for your waste to qualify for and maintain the transportation and disposal conditional exemption?

You must meet the following conditions for your eligible waste to qualify for and maintain the exemption: